

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

MEDICAL CAPITAL HOLDINGS, INC., )  
*et al.*, )

2:06-CV-00768-PMP-PAL

Plaintiffs, )

**ORDER**

vs. )

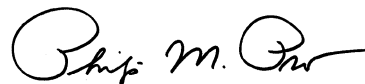
QUALITY CARE, LLC., *et al.*, )

Defendants. )

Having read and considered Defendant John Breining's fully briefed Motion to Dismiss Complaint or Alternatively, Motion to Set Aside Default Judgment Against John Breining and Motion to Dismiss (Doc. #18), and having further considered the arguments of counsel presented at the hearing conducted September 28, 2012, and finding that Defendant Breining's Motion under Rule 60(b) of the Federal Rules of Civil Procedure is not timely, and finding further from the record that Defendant Breining had either actual or constructive notice of the filing of the action which would have made it possible for him to hear answer or defend, or thereafter, file a timely motion to set aside default judgment, and good cause appearing,

**IT IS ORDERED** that Defendant John Breining's Motion to Dismiss Complaint or Alternatively, Motion to Set Aside Default Judgment Against John Breining and Motion to Dismiss (Doc. #18) is **DENIED**.

DATED: September 29, 2012.



PHILIP M. PRO  
United States District Judge